



Docket No.: 60,130-709; 99MRA0211

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Kalageros et al.

EXAMINER: Carpenter, Scott

SERIAL NO.: 09/592,751

GROUP ART UNIT: 3600

FILED: June 13, 2000

FOR: CRUMPLE ZONE FOR BODY PANELS

ATTORNEY DOCKET NO: 60,130-709 (99MRA0211)

BOX-AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

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**REPLY BRIEF**

Dear Sir:

Responsive to the Examiner's Answer dated May 22, 2003, please consider the following remarks. The appeal brief fee has already been paid. Any additional fees or credits may be charged or applied to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds.

**REMARKS**

Appellant respectfully reiterates all of the arguments made in the Appeal Brief and in previous Office Action responses to address the Examiner's Answer. Additional arguments, prepared in response to new issues raised in the Examiner's Answer, are set forth below.

**Claim 1**

The examiner argues that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art and that if the

prior art structure is capable of performing the intended use, then the prior art structure meets the claim. First, there clearly are structural differences between the claimed invention and the prior art. Second, the prior art structure set forth in Amano is not capable of performing the intended used set forth in claim 1.

Claim 1 requires a vehicle body panel where a sheet of material includes spaced reinforcement on the sheet of material such that the panel crumples in a predetermined manner. The prior art structure of Amano does not include spaced reinforcement as set forth in claim 1 and as defined in the specification. Thus, there is a clear structural difference between the prior art structure of Amano and Appellant's invention.

Further, there is no teaching that Amano is capable of performing the intended use of the claimed invention. Amano does not even discuss crumpling in relation to the use of spaced reinforcements and certainly does not teach crumpling in a predetermined manner as a result of the use of spaced reinforcements. The examiner's bare assertion that the prior art structure of Amano might possibly perform the intended use is insufficient to support a claim that the Amano structure is capable of performing the same intended use as Appellant's claimed invention. This is especially true as the corrugations on which the examiner relies on as "being reinforcing in nature" are clearly not described as reinforcements in Amano, but instead are used solely for their sound deadening properties.

### **Claim 32**

The examiner argues that the panel of Amano is "mildly curved" and falls within the scope of Appellant's use of the term "generally planar." Appellant disagrees. While Appellant's

claimed generally planar body panel may have a slight curvature at certain portions (e.g., a generally flat vehicle hood with curved edges extending down toward the fenders, for example), Appellant's claimed body panel is clearly not cylindrical.

Appellant strongly disagrees with the examiner's assertion that the panel of Amano is "mildly curved." The panel of Amano is a cylindrical fuselage and has absolutely no flat portions, thus there are no planar surfaces on the panel in Amano. Further, one of ordinary skill in the art would never consider the cylindrical fuselage as corresponding to Appellant's claimed generally planar panel, especially since the background of Amano clearly differentiates flat plates from cylindrical fuselages, see column 1, lines 50-64.

### **Claim 33**

The examiner argues that "Amano clearly has the capability to be deformed in the manner as claimed a point which the Appellants' don't contest." Appellant strongly traverses examiner's characterization of Appellant's argument. Appellant never stated that the Amano structure could be deformed in manner set forth in claim 33. If the Amano structure crashed into the ground, it would of course crumple. However, the Amano structure simply does not teach a panel with spaced reinforcement where the spaced reinforcement crumples in a predetermined manner in a generally linear direction in response to an impact force.

### **Claims 3 and 10-11**

The examiner argues that claim 1 recites a "vehicle body panel" and Amano teaches a vehicle body panel. Just because both Appellant's disclosure and Amano discuss vehicle body

panels does not make Amano analogous art to Appellant's invention. The examiner further argues that Appellant is simply arguing the deficiencies of Amano and that nonobviousness cannot be shown by attacking references individually where the rejection is based on a combination of references. The Appellant is pointing out deficiencies in Amano to show that Amano is non-analogous art.

To rely on a reference as a basis for a rejection, the reference must meet the standard set forth in In re Oetiker (see Appeal Brief). Amano clearly does not meet this standard. Further, the examiner has provided no arguments as to how Amano satisfies the In re Oetiker standard.

With regard to Appellant's argument that there is insufficient motivation to modify Amano with Spain or Vogt, the examiner argues that there is a recognition that there is some advantage or expected beneficial result that is produced by the combination. The examiner has pointed to no teaching in Spain or Vogt of any particular benefit that would be provided to the structure of Amano to include a sheet of colored material attached to the sheet of material with spaced reinforcement to achieve crumpling in a predetermined manner. Further, the examiner has not indicated how the Amano panel is in any way deficient for Amano's purposes or is in need of modification.

With regard to Appellant's argument that the references fail to teach the features of the claimed invention, the examiner argues that features upon which the Appellant relies (i.e., intended use of reducing pedestrian injuries) are not recited in the rejected claims. Appellant's arguments with regard to the fact that the references fail to teach the claimed features do not rely on the intended use of reducing pedestrian injuries (see pages 13-14 of the Appeal Brief). Appellant discussed the reduction of pedestrian injuries with regard to the examiner's motivation

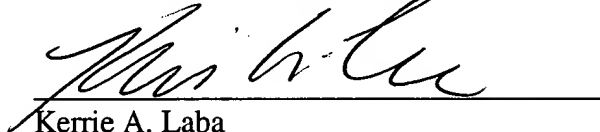
to make the modification (see page 12 of the Appeal Brief), which is a separate issue from the references failing to teach the claimed features.

**CONCLUSION**

For the reasons set forth above and in the Appeal Brief, the rejection of all claims is improper and should be reversed.

Respectfully submitted,

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Dated: July 22, 2003

**CERTIFICATE OF MAILING**

I hereby certify that the attached Reply Brief is being deposited in triplicate with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Box AF, Assistant Commissioner of Patents, Washington, D.C. 20231, on this 22<sup>nd</sup> day of July, 2003

  
Laura Combs